IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

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WRIT PETITION NO : 32533 of 1997

Between:

T.Gangana S/o Narasaiah, R/o Devunugudam , Kadam Mandal,
Adilabad District.

..... PETITIONER

AND

1 The Commissioner of Prohibition & Excise, A.P., Hyderabad.
2 The Deputy Commissioner of Prohibition & Excise, Karimnagar Region, Karimnagar District.
3 The Station House Officer, Nirmal, Adilabad District.

(Case against R3 dismissed for default as per court order, dt 6/9/2000)

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus, declaring the action of the respondents 1 & 2 in ordering for confiscation of petitioner's jeep bearing No. Ap-1/C 1225 vide without applicationof mind as illegal , arbitrary, and against to principles of natural justice and consequently direct the 2nd respondent to give custody of the jeep bearing No. Ap1/c 1225 to the petitioner setting aside the order of confiscation ordered by the 2nd respondent.

Counsel for the Petitioner:MR.N.RAVI PRASAD

Counsel for the Respondent : GP FOR PROHIBITION & EXCISE FOR R

The Court made the following :

ORDER :

Heard the learned Counsel for the petitioner and the learned Government Pleader for prohibition and Excise appearing for the respondents.

Questioning the action of 2nd respondent-Deputy Commissioner of Prohibition and Excise, Karimnagar Division, Karimnagar in passing the Order.No.1369/96/P&Ex/B3, dated 07-01-1997, confiscating the Jeep of the petitioner, bearing No.AP-1-C-1225, without issuing him any notice, and also the action of 1st respondent-Commissioner of Prohibition and Excise, Andhra Pradesh, Hyderabad in passing the order in Cr.No.1259/97/DPE/B2, dated 27-8-1997, confirming the order of 2nd respondent, dated 07-01-1997, the petitioner filed this writ petition.

The learned Government Pleader for Prohibition and Excise submitted that the matter relates to the offence under the Andhra Pradesh Prohibition Act, 1995 (for short "the principal Act"). She submitted that the Government has taken a policy decision to compound certain offences under the principal Act and in that direction, passed Andhra Pradesh Prohibition (Amendment) Act, 2000 (Act No.17 of 2000) which was published in the Andhra Pradesh Gazette Part IV-B-Extraordinary No.23, dated 29-4-2000; and also framed Rules called – The Andhra Pradesh (Compounding Offences) Rules, 2000 (for short "the Compounding Rules) by G.O.Ms.No.496, Revenue (Excise III), dated 25-7-2000, which was published in the Andhra Pradesh Gazette Extraordinary (Part II) Rules Supplement No.18, dated 27-7-2000. She further submitted that as per Rule 4 of the Compounding Rules, the Deputy Commissioner of Prohibition & Excise is empowered to compound those offences in which vehicles are involved and falling under sub-clause (i) of clause (b) of Section 8 of the principal Act. Thus, she submitted that the case of the petitioner be referred to the 2nd respondent-Deputy Commissioner of Prohibition & Excise, for determination under the Compounding Rules.

Having regard to the above submission of the learned Government Pleader for Prohibition and Excise, and in view of the fact that the case of the petitioner falls within the Compounding Rules, I deem it appropriate to direct the petitioner to file an application seeking compounding of the offence with respect to the vehicle in question under the Compounding Rules before 2nd respondent-Deputy Commissioner of Prohibition and Excise, Karimnagar Division, Karimnagar, within a period of one month from the date of receipt of a copy of this order, and on such filing, the 2nd respondent is directed to consider the same and pass appropriate orders thereon in accordance with law.

With the above observations, the writ petition is disposed of. No costs.

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N.V.RAMANA, J

Dt: 15-04-2005.

ajr

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Commissioner of Prohibition & Excise, A.P., Hyderabad.
2 The Deputy Commissioner of Prohibition & Excise, Karimnagar Region, Karimnagar District.

3 Two C.Cs. to the GP for Prohibition & Excise, High Court buildings,

Hyderabad. (OUT)

4 2 CD copies

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